

9441.1986(23)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

MAR 21 1986

Mr. Thomas J. Jackson  
Thorp, Reed, and Armstrong  
One Riverfront Center  
Pittsburgh, Pennsylvania 15222

Dear Mr. Jackson:

This is in response to your letter dated, February 28, 1986. In your letter, you requested an interpretation of the Federal hazardous waste rules concerning a mixture of methanol and a non-hazardous waste which does not exhibit the ignitability characteristic. Under the Federal hazardous waste rules, this mixture would not be defined as a hazardous waste, provided the waste does not exhibit any of the other hazardous waste characteristics (i.e., corrosivity, reactivity, and extraction procedure (EP) toxicity). In particular, a mixture of a characteristic hazardous waste, including wastes that are listed solely because they exhibit one or more of the hazardous waste characteristics and a solid waste is not hazardous if the mixture does not exhibit any of the hazardous waste characteristics. In the example described in your 1/ letter, methanol (a hazardous waste due to its ignitability) is mixed with a non-hazardous wastestream; the resulting mixture is no longer ignitable. Therefore, this mixture would not be considered hazardous (as long as the waste does not exhibit any of the other hazardous waste characteristics) under the Federal hazardous waste rules (i.e., a delisting petition is not necessary). States, however, may have rules that are more stringent or broader in scope than the Federal rules. Therefore, this waste remains hazardous under Pennsylvania law, unless it is exempted in accordance with State law.

1/ If the methanol is being used as a solvent, the spent methanol would be defined as EPA Hazardous Waste No. F003.

RO 11140

9441.1986(62)

AUG 19 1986

Mr. William R. Blackburn  
Counsel  
Travenol Laboratories Inc.  
Deerfield, Illinois 60015

Dear Mr. Blackburn:

This letter is in response to your letters dated July 19, and August 26, 1985, and your August 28, 1985, telephone conversation with Alfred W. Lindsey, then the Deputy Director of the Waste Management and Economics Division, and additional conversations with members of my staff. Your questions concerned the treatment of characteristic hazardous waste in pipelines that lead to a privately-owned wastewater treatment plant.

In a letter dated July 27, 1981, Mr. Lindsey responded to related inquiries made by Mr. Ronald E. Meissen of your company. This response included a copy of a seven-page regulatory clarification statement on the definition of "Totally Enclosed Treatment Facility." A copy of this statement is enclosed for reference.

In your letter dated July 19, 1985, you stated that "...if these characteristic hazardous wastes are poured to the sewer from a laboratory, such disposal would be permissible so long as the one-percent rule of 40 CFR 261.3(a)(2)(iv)(E) is met." This is an inaccurate interpretation of the rule. The rule does not refer to the permissibility of disposal but rather to whether the wastewater containing listed wastes is a hazardous waste or not. The provision does not apply where characteristic wastes are involved, even if the waste is from a laboratory. Mixtures containing only characteristic and nonhazardous wastes are hazardous only if the mixture exhibits the characteristic according to §261.3(b)(3). In sum, 40 CFR 261.3(a)(2)(iv)(E) is not relevant to the issue you raise. At this time, there is no on-going effort to create a de minimis mixture rule for characteristic hazardous waste.

From your description of the process, small parts are dipped into 50% alcohol/50% water mixture in small trays. This is a batch operation that occasionally requires the operators to carry the trays with spent dip solution to the drain. About 12 gallons per day of the waste are poured down the drain that

RO 11173

(D) If the waste is diluted in the sink prior to discharge down the drain, is the sink a "wastewater treatment unit?"

If hazardous waste is diluted in the sink, it is hazardous waste treatment, since the dilution is intentional, rather than merely incidental to conveyance to the treatment plant. Intentional dilution of waste prior to discharge to decrease its incompatibility, ignitability, reactivity, etc., in the pipelines constitutes treatment.

Since your 50% water/50% alcohol waste is not a wastewater by our guidance of a few percent contaminants (see the February 2, 1982, notice, 47 FR 4707), the sink is not a wastewater treatment unit.

Issues from the August 26, 1985, letter

(A) If corrosive hazardous waste from water deionization units travels through an open channel within the building to the sewer leading to an industrial wastewater treatment plant, does the neutralization of that waste in the sewer mean that the sewer is: (1) a totally enclosed treatment facility; (2) an elementary neutralization unit; or (3) a wastewater treatment unit? (4) Does the answer change if the channel is enclosed?

(1) No. An open sewer is not totally enclosed on all sides in accordance with Agency guidance.

The issue you raise is whether or not an open sewer in a building can be a totally enclosed treatment facility. Spills within the building can release hazardous constituents into the air or cause a release that leaves the confines of the building. Therefore, systems that can release hazardous constituents within buildings are not considered totally enclosed.

(2) Tanks are defined in 0260.10 as: "a stationary device designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials...which provide structural support." According to the preamble of the proposed permit-by-rule in the November 17, 1980, Federal Register (45 FR 76078), the elementary neutralization unit "...is intended to include...tanks as well as devices such as flumes, gutters, throughs [sic] and pipes which are not commonly considered to be tanks, but which nevertheless meet the expansive definition of tank in 0260.10." Although this preamble language was only included in the proposed permit-by-rule regulations, the Agency is applying this interpretation of tank to the exclusions in §§265.1(c)(10), 264.1(c)(6), and 270.1(c)(2)(v) as well.

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According to further discussions you had with my staff, the corrosive waste from the deionization units will for the short term be managed according to scenario "A" in your August 26, 1985, letter, which meets the EPA criteria for either elementary neutralization or wastewater treatment. (However, the facility is subject to State regulation.) For the purposes of determining the applicability of the small quantity generator exclusion of §261.5, our regulatory approach does not count waste until it is subject to regulation. The waste is not subject to regulation in the deionization unit in which it was generated according to §261.4(c) nor in the exempted neutralization process. Since there is no hazardous waste leaving the sewer, the corrosive waste from the deionization unit is not counted towards the waste exceeding 1,000 Kg a month. This policy is explicitly outlined in the §261.5(c) small quantity generator regulations promulgated March 24, 1986 (56 FR 10174).

The additional information you provided by telephone leaves serious questions about whether you can design a totally enclosed system and still meet your Food and Drug Administration requirements. However, scenario "B" still qualifies as an elementary neutralization unit and, as explained above, the corrosive waste does not count towards the small quantity generator limits, because the waste has not yet become subject to regulation. In other words, you do not have to be a totally enclosed treatment facility in order to qualify for small quantity generator status.

I appreciate your patience for the length of time it took EPA to address the policy issues raised by your request. Please address any questions on this response to Irene Borner of my staff at (202) 382-7917.

Sincerely,

Original Document signed

John P. Lehman  
Director  
Waste Management and  
Economics Division

Enclosure

cc: James Scarbrough, Region IV  
Jack McMillan, Mississippi DNR

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9441.1981(06)

MIXING RULE DEFINITION

OFFICE OF SOLID WASTE

JUN 1981

Mr. George Boyd  
Pennsylvania Foundrymens Assn.  
Suite 512  
One Plymouth Meeting  
Plymouth Meeting, PA 19462

Dear George:

Your understanding of the operation of the mixing rule in §261.3(a) (2) (ii) is correct. If one mixes a listed hazardous waste with a non-hazardous waste the total waste automatically becomes a hazardous waste. For such a mixture to cease to be a regulated hazardous waste the generator must petition the Agency to delist the mixture. For non-listed hazardous wastes the situation is different.

If a waste becomes a hazardous waste only because it exhibits one or more characteristics (i.e., it is not a listed waste), then if such a waste is mixed with another waste and the mixture does not exhibit any of the characteristics of a hazardous waste, the mixture automatically ceases to be a hazardous waste. Such an action does not require any delisting action by EPA.

I hope this note is sufficient for your needs.

Sincerely,

David Friedman  
Manager  
Waste Analysis Program  
Hazardous and Industrial Waste Division (WH-565)

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RO 12030

9551.1988(02)

RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

APRIL 88

6. Dilution of Land Disposal Restricted Waste

A generator of a spent solvent, which contained one hundred percent (100%) acetone before use, identified the waste as F003. She/he regenerates the spent solvent by distillation, and then triodes the stillbottoms in an accumulation tank by mixing them with nonhazardous solid waste. The resulting mixture no longer exhibits the characteristic of ignitability. According to 40 CFR Section 261.3(a)(2)(iii), the material is no longer a hazardous waste. However, the enforcement agency considers the mixing with nonhazardous waste to be dilution, which is prohibited by Section 268.3. Would the dilution prohibition prevent the generator from being able to mix the F003 waste with nonhazardous solid waste?

The preamble to the November 7, 1986 Federal Register (51 FR 40592) specifies that the prohibition on dilution of wastes restricted from land disposal, found at Section 268.3, "does not affect provisions in other EPA regulations which may allow dilution for other purposes." Thus, if the generator's purpose in mixing the stillbottoms with nonhazardous waste is to render the mixture nonhazardous she/he is not precluded from doing so by Section 268.3. However, if the generator's purpose in mixing the waste is to dilute the F003 waste as a substitute for adequate treatment to achieve compliance with Part 268, Subpart D, the action is prohibited.

Source: Mike Petruska (202) 475-9888

Mitch Kidwell (202) 382-4805

Research: Becky Cuthbertson

Deborah McKie